

IN THE SUPREME COURT OF OHIO
2007

STATE OF OHIO,

Plaintiff-Appellee,

vs.

CHRISTOPHER SWANN,

Defendant-Appellant.

Case No. 07-1046

On Appeal from the Franklin County
Court of Appeals, Tenth Appellate
District

Court of Appeals Case Nos. 06AP870
06AP899

MERIT BRIEF OF DEFENDANT-APPELLEE

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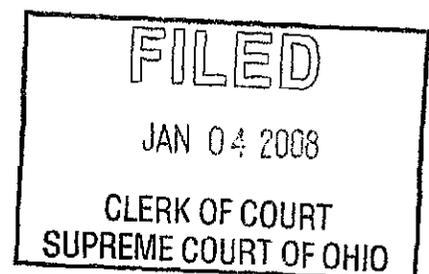


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STATEMENT OF THE FACTS

I. Trial Evidence

Although defendant-appellee generally agrees with the statement of facts presented in appellant's brief, he believes there are additional facts that will be presented here that are critically important to the determination of the admissibility of the excluded statements at issue in this case. During his testimony, the victim, Mr. Stith indicated that appellee wore his hair in braids at the time of the shooting and had something white tied on his head (Tr., 174). Kavar Thompson testified that appellee did not have anything covering his head (Id., 382-383).

Mr. Stith indicated that he didn't see anyone else with appellee when he was shot, (Id., 174). On cross examination, he was shown the summary of his interview with then Detective Carney, where he indicated that there were two other people with appellee when he was shot. Mr. Stith indicated that the two people mentioned in the summary, (Delmar Carlisle and Andre Sharp), are normally with appellant, but he denied ever telling the detective that they were with appellee at the time of the shooting (Id., 207-210). The defense later called former Detective Carney to as a witness to the statement he took from Mr. Stith several days following the shooting. The report indicated that all three individuals were firing were firing guns into the air (Id., 610). Defense counsel attempted to impeach Mr. Stith with other inconsistencies between his direct testimony and the police investigative summary of his interview with the detective, but Mr. Stith consistently denied any recollection of the interviews due to his then medical condition (Id., 212-215). He admitted that he could not see who was shooting from his window before he went outside (Id., 223).

Kavar Thompson testified that he saw appellee and Andre Sharp shooting in the alley behind appellee's house at 8:30 or 9:00 p.m. (Id., 353). Mr. Thompson said appellee used a big gun, like a chopper; not a handgun (Id., 361). Detective Carney later testified that in an interview with Mr. Stith, he indicated that appellee was carrying a 9mm handgun (Id., 618). On cross-

examination, defense counsel impeached him with a police summary prepared by Detective Carney indicating that Sharp and Carlisle were with appellee that day. Mr. Thompson insisted that the summary was incorrect, and that he had not said that (*Id.*, 377). There were also inconsistencies regarding whether appellee was inside or outside a fence (*Id.*, 381).

ARGUMENT

Proposition of Law: The Sixth Amendment Right to Confrontation and a defendant's right to present a defense require that trial courts admit evidence of third party guilt offered by a criminal defendant, where circumstances provide a rational basis for that evidence to be considered by the fact finder, not withstanding the "corroboration" requirements of Evid. R. 804(B)(3). (*Chambers v. Mississippi*, (1973), 410 U.S. 284, 93 S.Ct. 1038, *Holmes v. South Carolina* (2006), 547 U.S. 319, 126 S.Ct. 1727)

I. Ohio's corroboration requirement is unconstitutional

The Right to Present a Defense is one of the few individual rights which continues to evolve under both federal and state constitutional doctrine. It recognizes the right of the accused to participate in the search for the truth that is the basis of our criminal system.

Evidence Rule 804(B), which permits exclusion of evidence favorable to the defendant that is considered by the trial court to be unreliable raises the constitutional question of the scope of the right to present a defense. Although it is well settled that the right to present a defense does not give criminal defendants an absolute right to present any and all evidence, it is also clear that the question of admission or exclusion of defense evidence is not simply a matter of evidentiary "balancing" committed to the discretion of the judge. Appellant, in it's brief, argues repeatedly that Evid.R. 804 comports with Due Process. As the *Chambers* Court notes, however, the analysis does not end there. The Court stated, "A court's discretion in evidentiary rulings is circumscribed by the rules of evidence *and* the defendant's constitutional right to present a defense." *Chambers v. Mississippi*, (1973), 410 U.S. 284, 93 S.Ct. 1038, 35 L.Ed.2d 297. Every decision to exclude defense evidence is a fundamental constitutional question and the rules of

evidence are not dispositive where their enforcement would deprive the accused of favorable evidence.

A. *Chambers v. Mississippi* and *Green v. State of Georgia*

The leading case demonstrating the subordination of local rules of evidence to the defendant's right of compulsory process is *Chambers v. Mississippi*, supra. Chambers was tried for a murder to which McDonald had confessed. McDonald was called by the defense, but retracted his prior out of court confessions and asserted an alibi. Chambers, under the state "voucher" rule, was not allowed to impeach McDonald with respect to his alibi or confession. Furthermore, Chambers was not allowed to introduce into evidence McDonald's extrajudicial confessions, because they were only against the declarant's *penal* (as opposed to pecuniary) interest, and therefore inadmissible under Mississippi hearsay rules.

Although, for procedural and jurisdictional reasons, *Chambers* was decided on due process grounds, its analysis and language were based upon the Sixth Amendment. In reversing the conviction, the Supreme Court ruled that both decisions by the trial court in *Chambers* operated to deprive the defendant of his compulsory process rights, by preventing him from attempting to elicit facts from this witness through examination, and by preventing him from introducing independent evidence of those facts. Since the "impeachment" of McDonald was directed at putting the extrajudicial statement before the jury, that too was a compulsory process issue, even though it arose in the course of cross examination.

With respect to the exclusion of McDonald's extrajudicial confessions, the Court stated as follows: "Although perhaps no rule of evidence has been more respected or more frequently applied in jury trials than that applicable to the exclusion of hearsay.... The testimony rejected by the trial court here bore persuasive assurances of trustworthiness and thus was well within the basic rationale of the exception for declaration against interest. The testimony also was critical to Chambers' defense. In these circumstances, where constitutional rights directly affecting the

ascertainment of guilt are implicated, the hearsay rule may not be applied mechanistically to defeat the ends of justice.” *Chambers*, at 1049.

The reversal of Chambers’ conviction establishes that the defendant has a constitutional right to introduce any evidence favorable to himself unless the prosecution can demonstrate that the evidence is so inherently unreliable as to leave the jury no rational basis for evaluating its truth. Given that “(f)ew rights are more fundamental than that of an accused to present witnesses in his own defense” *Chambers*, 302, the exclusion of evidence on the grounds of state evidentiary rules such as the rule against hearsay must be necessary to satisfy a compelling state interest.

The United States Supreme Court reaffirmed the principles stated in *Chambers in Green v. State of Georgia*, (1979), 442 U.S. 95, 99 S.Ct. 2150, 60 L.Ed.2d 738. The Petitioner, Green, and his co-defendant, Moore, were tried separately on charges of rape and murder. Moore was convicted of both crimes and sentenced to death. At the punishment stage of Green’s prosecution, he sought to prove that he was not present when the victim was killed and had not participated in her death. He attempted to introduce the testimony of a witness who had been told by Moore that Moore alone had killed the victim after ordering the petitioner to run an errand. This same testimony had been given by the witness, testifying for the state against Moore. However, this offer of evidence on behalf of Green, was refused by the trial court on the strength of the Georgia hearsay statute, which did not recognize declarations against penal interest as an exception to the hearsay rule *unless* that statement is admitted against a declarant. Thus the state felt the witness’ testimony reliable against Moore, but not in favor of the defendant. The Supreme Court reversed the death penalty sentence imposed, holding that the hearsay rule of the State of Georgia may not be applied mechanistically in a fashion which deprives the defendant of his fundamental rights, referring to the decision in *Chambers*.

The State cites *Montana v. Egelhoff*, (1996), 518 U.S. 37, 116 S. Ct. 2013, 135 L. Ed. 2d 361, as a case endorsing imposing limits on *Chambers*. Justice Scalia's opinion in that case did not garner a majority and was joined by only three other justices, Chief Justice Rehnquist and Justices Kennedy and Thomas. While Justice Ginsburg filed a separate opinion concurring in the judgment reached by Justice Scalia's plurality, she expressed absolutely no opinion on *Chambers* and its progeny. However, Justice O'Connor filed a dissenting opinion strongly disagreeing with Justice Scalia's characterization of *Chambers*. Justices Stevens, Souter, and Breyer joined Justice O'Connor in dissent. Two years later, a clear majority of the Court rejected Justice Scalia's characterization of *Chambers* by recognizing that a defendant's constitutional right to present a defense cannot be impinged by evidentiary rules which are "arbitrary" or "disproportionate to the purposes they are designed to serve" in light of the right to present a defense. *United States v. Scheffer*, 523 U.S. at 303, 118 S. Ct. at 1264.

B. *Holmes v. South Carolina*

The *Chambers* principle was again affirmed by the Supreme Court in *Holmes v. South Carolina*, (2006), 547 U.S. 319, 126 S.Ct.1727, in the first opinion issued by Justice Alito. Appellant, in its brief, comments that Judge Tyack didn't mention *Chambers* in his decision. *Holmes* is an extension of *Chambers*, building on the same concepts first enunciated there. Bobby Lee Holmes had been convicted of capital murder, after cross examination and evidence implicating another person were precluded. There was strong circumstantial evidence connecting Holmes to the crime, including fingerprints, trace fiber and DNA evidence. However the defendant alleged that he was being framed, also using scientific evidence to support that claim, and offered evidence that Jimmy McCaw White had been in the neighborhood at the time and had admitted to the crime and stated that Holmes was "innocent." However White denied these inculpatory statements in a pretrial hearing. The trial court excluded the evidence of White's guilt, and cross examination regarding the police suspicions of White, relying on *State v.*

Gregory, (1941), 198 S.C. 98, 104, 16 S.E.2d 532, 534. That case had stated that third-party guilt evidence must be limited to such facts as are inconsistent with his own guilt, and to such facts as raise a reasonable inference or presumption as to his own innocence; evidence which can have (no) other effect than to cast a bare suspicion upon another, or to raise a conjectural inference as to the commission of the crime by another, is not admissible. In applying this rule the trial court also found that White's multiple confessions must be excluded as hearsay, and that without the confessions the rest of the third-party guilt evidence did not clearly point to White as the perpetrator. Trial counsel objected that this ruling would be a "compulsory process violation" and negate the "right to present an adequate defense." The South Carolina Supreme Court affirmed, but on different grounds. It observed that in its more recent decision of *State v. Gay*, (2001), 343 S.C. 543, 541 S.E.2d 541, "we held that where there is strong evidence of an appellant's guilt, especially where there is strong forensic evidence, the proffered evidence about a third party's alleged guilt does not raise a reasonable inference as to the appellant's own innocence." *State v. Holmes*, (2005), 361 S.C. 333, 343, 605 S.E.2d 19. The Court stated that "Given the overwhelming evidence of appellant's guilt, the circuit court did not err by excluding the evidence of third party guilt." The Supreme Court reversed, stating that "the Constitution guarantees criminal defendants 'a meaningful opportunity to present a complete defense'" quoting, *California v. Trombetta*, (1984), 467 U. S. 479, 485. The Court faulted the South Carolina ruling for its logic: The rule applied in this case appears to be based on the following logic: Where (1) it is clear that only one person was involved in the commission of a particular crime and (2) there is strong evidence that the defendant was the perpetrator, it follows that evidence of third-party guilt must be weak. That logic is wrong because "by evaluating the strength of only one party's evidence, no logical conclusion can be reached regarding the strength of contrary evidence offered by the other side to rebut or cast doubt." Therefore the rule was arbitrary and violated the right to present a defense. Although the holding in *Holmes* was

very fact specific to that case, it reaffirmed that issues regarding evidence of third party guilt must be analyzed considering due process, compulsory process, and the right to present a defense.

C. Relevance, “probative value” of evidence

The standards of relevance applied to the admissibility of the defendant’s evidence may not be arbitrary. The defendant has a right under the compulsory process clause to present any evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. Evid. R. 401. If the relevance of the evidence is something about which reasonable persons might differ, using the analysis of *Washington v. Texas*, (1967), 388 U. S. 14, instructing the jury concerning any particular reasons to be cautious about the evidence is far preferable to its exclusion. Appellant argues that Evid.R. 804 is reasonable because it applies to both the state and defense equally (Appellant Br., 17). However, the court in *Washington* held that the defense is not necessarily held to the same standard as the prosecution in determining whether the evidence is sufficiently “probative” to be admitted. In other words, complying with evidence rules does not necessarily protect Sixth Amendment rights. This derives from the principle established in *Washington*, that giving the defense parity with the prosecution is not sufficient if the rule, though equally applied to the accused and the state, still results in the exclusion of favorable evidence. It also derives partly from the fact that the defendant prevails in a criminal trial merely by establishing a *reasonable doubt* about guilt; the threshold of admissibility should not be any higher than suggested by the question “Could this evidence create a reasonable doubt in the mind of a qualified juror?”. So long as there is a significant chance of this added item, developed by skilled counsel . . . could [induce] a reasonable doubt in the minds of enough jurors to avoid a conviction the constitutional standard of materiality has been met. *United States v. Miller*, 411 F.2d 825, 832 (2d Cir., 1969). See, *Welcome v. Vincent*,

549 F.2d 853 (2nd Cir.1977) (“some semblance of reliability”, at 859). If the evidence “could . . . in any reasonable likelihood have affected the judgment of the jury” a sufficient showing of materiality has been made under our constitution. *Giglio v. United States*, (1972), 405 U.S. 150, 154, 92 S.Ct. 763, 31 L.Ed.2d 104 (Burger, L.J., for a unanimous court); *Napue v. Illinois*, (1959), 360 U.S. 264, 271, 79 S.Ct. 1173, 3 L.Ed.2d 1217.

As the Supreme Court said in *United States v. Agurs*: The proper standard of materiality must reflect our overriding concern with the justice of the finding of guilt. Such a finding is permissible only if supported by evidence establishing guilt beyond a reasonable doubt. It necessarily follows that if the omitted evidence creates a reasonable doubt that did not otherwise exist, constitutional error has been committed. *United States v. Agurs*, (1976), 427 U.S. 97, 112-113, 96 S.Ct. 2392, 49 L.Ed.2d 342.

In *Pennsylvania v. Ritchie*, (1987), 480 U.S. 39, 107 S.Ct. 989, 94 L.Ed.2d 40, affirming the compulsory process rights of the accused to favorable information in confidential child sex abuse reports for use at trial, the Supreme Court said our cases establish, at a minimum, that criminal defendants have . . . the right to put before a jury evidence that might influence the determination of guilt. Thus, though conflicting with rules of evidence, such as hearsay, evidence favorable to the accused which the jury has a rational basis to evaluate ought to be admitted.

While the motivation for the requirement of “corroboration” appears to be a fear of perjured testimony, such a danger is present with all testimony and, as Professor Wigmore cogently observed, “any rule which hampers an honest man in exonerating himself is a bad rule, even if it also hampers a villain in falsely passing for an innocent” (Wigmore, Evidence [Chadbourn rev], § 1477, p 359. Moreover, in criminal prosecutions, there are constitutional limitations on exclusion of evidence favorable to an accused (US Const, 6th, 14th Amdts; *Chambers v Mississippi*).

II. Court of Appeals did not rule Evidence Rule 804(B) Unconstitutional

Appellant misstates the lower court's ruling in this case. Judge Tyack's opinion was merely the application of the *Holmes* decision to the facts of this case. Appellant is attempting to characterize an "as applied" opinion as a "facial" one. In his opinion, Judge Tyack initially engages in a lengthy evaluation of the facts regarding the strengths and weaknesses of the State's case, the proffered testimony of the defense, and the corroboration regarding that testimony. (Op., at ¶ 8, 9, 10, 11). Had his opinion been based solely on the constitutional grounds raised in *Holmes*, there would have been no need to explore the facts of this case. Judge Tyack would have simply announced a blanket rule regarding the unconstitutionality of the Evidence Rule at issue. Instead, He states "the trial court's exclusion of the defense's evidence essentially allowed them to present only half of their case-the alibi portion. The second half-that a third party, who had motive to shoot John Stith, made statements claiming responsibility for the shooting- was kept entirely from the jury." (Op., at ¶ 12). Judge Tyack then goes on to say that "In light of *Holmes* we hold that Evid.R. 804(B)(3) cannot be construed in a way that denies an accused a meaningful opportunity to present a complete defense" (Id.). Most telling on this issue is the last two sentences of the same paragraph, where Judge Tyack holds, "*In this case*, (emphasis added), the trial court should have allowed the proffered testimony and evidence to be presented to the jury for its own consideration . Thus, the trial court erred by denying Swann a meaningful opportunity to present a complete defense. The court's holding clearly effects only case and not the validity of the corroboration requirement of Evid. R. 804(B)(3) itself.

III. Trial court abused it's discretion in excluding the statements in this case

Appellee's trial counsel argued an Evidence Rule 804(B)(3) exception to the hearsay rule as a basis for admitting testimony regarding Delmar Carlisle's confessions. As argued above, both Evid. R. 804(B)(3), and a defendant's right to present a defense (including Due Process and

the Confrontation Clause), demand that appellant be permitted to offer this testimony. In relevant part, Evid. R. 804(B)(3) provides: "The following are not excluded by the hearsay rule if the declarant is unavailable as a witness: * * * (3) *Statement against interest*. A statement that so far tended to subject the declarant to criminal liability that a reasonable person in the declarant's position would not have made the statement unless the declarant believed it to be true. A statement tending to expose the declarant to criminal liability, whether offered to exculpate or inculcate the accused, is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

In *State v. Gilliam*, (1994), 70 Ohio St.3d. 17, the Court set forth the three elements that must be met for a confession to a third party to be admissible: (1) the declarant was unavailable to testify at trial; (2) the confession tended to subject him to criminal liability such that a reasonable person in his position would not have made the confession unless he believed it to be true; and (3) corroborating circumstances clearly indicated the trustworthiness of the confession.

There is no question that the first two requirements were satisfied in this case. Carlisle was "unavailable" for trial within the meaning of Evid. R. 804(B) because, at the State's request, a voir dire of his testimony outside the presence of the jury was conducted before calling him as a witness. During that voir dire, Carlisle refused to answer virtually all questions, citing his right to refrain from incriminating himself under the Fifth Amendment of the United States Constitution (Evid. R. 804(A)). The confession also subjected Carlisle to criminal prosecution. Defense counsel informed the trial court that several witnesses would testify that Carlisle had confessed to them that he, not appellee, had shot the victim. This statement was squarely against Carlisle's penal interest.

The main issue raised by appellee, therefore, was whether the trial court abused its discretion in finding that corroborating circumstances failed to clearly indicate the trustworthiness of the confessions. Judge Brown clearly ruled that the trial court did abused that

discretion. In *State v. Durant*, 2004-Ohio-6224, the Court discussed what "corroborating circumstances" may be relied upon to establish the trustworthiness of a statement under Evid. R. 804(B)(3). In that case, as in the present case, trial counsel argued only the hearsay exception as permitting testimony regarding a third party confession. In fact, in that case, a Due Process Clause violation was not even argued on appeal. However, the Court nonetheless looked to Due Process cases in deciding what evidence should be considered in deciding "corroborating circumstances", and determined that the court could consider circumstances beyond those immediately surrounding the making of a statement when assessing its trustworthiness under Evid. R. R. 804(B)(3).

The *Durant* Court cited *Chambers v. Mississippi* (supra), in which the U.S. Supreme Court held that due process "affords criminal defendants the right to introduce into evidence third parties' declarations against penal interest-*their confessions*-when the circumstances surrounding the statements 'provid[e] considerable assurance of their reliability.'" In the due process context, the Ohio Supreme Court has recognized that relevant corroborating circumstances include not only those surrounding the actual making of the statement but also any other corroborating evidence. *State v. Yarbrough*, (2002), 95 Ohio St.3d, 227, 238, fn. 2 The Court stated, "Although the fact that other evidence corroborates the statement is 'irrelevant' to the Confrontation Clause analysis when the state attempts to introduce a statement against interest * * *, the same is not true when the defense attempts to introduce such a statement as a matter of due process." See also *Chambers*, supra, 300 (relying in part on the fact that third-party confessions were corroborated by "some other evidence in the case" to find that the defendant had a due process right to introduce the confessions).

In *State v. Landrum* (1990), 53 Ohio St.3d 107, the defendant invoked Evid.R. 804(B)(3) to introduce a third-party's out-of-court statement confessing to a crime. The Ohio Supreme Court held that the confession was sufficiently reliable to be admissible under the evidence rule.

Important factors in that case were that the statement was made spontaneously shortly after the crime, and that declarant had no motive to lie. The Court also considered evidence other than the circumstances surrounding the making of the statement, including a lack of blood on the defendant's clothing, to corroborate the confession. Further the Court held that the credibility of the witness does not effect the statement's admissibility, as Evid. R. 804(B)(3) refers to trustworthiness of the statement not the witness. Credibility of the witness is a decision for the jury.

In *State v. Sumlin*, 1994-Ohio-508, the defendant sought to use Evid. R. 804(B)(3) to introduce written notes that were against the penal interest of an unavailable witness. Upon review, the Ohio Supreme Court found no abuse of discretion in the trial court's ruling that the notes were not sufficiently corroborated to be trustworthy. However, the Court considered evidence other than the circumstances immediately surrounding the writing of the notes to make this determination. The Court found statements made on the day of trial to people aligned with appellant, and where declarant was accepting all instead of part of the responsibility for the crime, having already been also charged, was not sufficient corroboration. However, having determined that the trial court did not abuse its discretion in declining to allow the statements into evidence pursuant to Evid. R. 804(B)(3), the court also considered whether fundamental principles of due process required the trial court to admit the statements. The court in this case also looked to *Chambers* and *Green*, supra, for guidance. See also *Landrum*, supra, at 114, quoting *Chambers* and *Green* for the same proposition.

It is well settled law that statements to close family members have "particularized guarantees of trustworthiness". *United States v. Westmoreland* (C.A.7, 2001), 240 F.3d 618, 628, quoting *United States v. Tocco* (C.A.6, 2000), 200 F.3d 401, 416. "Even to people we trust completely, we are not likely to admit serious fault of which we are innocent * * *." Mueller & Kirkpatrick, *Federal Evidence* (2d Ed.1994) 822-823, Section 496. Thus, where a declarant

makes a statement to someone with whom he has a close personal relationship, such as a spouse, child, or friend, courts usually hold that the relationship is a corroborating circumstance supporting the statement's trustworthiness. *Green*, supra, at 97, 99.

In the case at bar, the statements were made shortly after the shooting, not close to the trial date. Lisa Hughes testified that Carlisle confessed to her in July of 2005, not even a month after the shooting (Tr., 852). Her daughters, Cierra and Tiffany, confirmed that date (Id., 860, 874). Tia Holland testified that she and Appellee took care of Carlisle and considered him a little brother (Id., 891). He confessed to her at least ten times over the year since the shooting (Id., 886) The first time was “within a couple days of the shooting” (Id., 894). Tia Holland indicates that she did notify Detective Carney of the statement (Id., 894). The victim, John Stith, also reported to detectives during an interview, that he had heard that Marty, or Carlisle, was the shooter (Id., 217). Clearly, the statements were not recently fabricated to assist appellee trial. The statements were completely voluntary and made to close friends, who he considered to be family. He had no motive to lie when confessing to this shooting, and confessed to at least four people, one of them on many occasions. He was not with appellee at the time of any of the statements, indicating a lack of coercion (Id., 843). The statement is further corroborated by witness statements that he was present in the area at the time of the shooting. Detective Carney testified that Mr. Stith told him appellee was with two other individuals, one of whom was Marty, or Carlisle (Id., 605). It was dark, and the shooter was at least partially obstructed by a bush. His version of events in his confessions matches the descriptions given by the prosecution witnesses (Id., 845). Finally, appellee offered an alibi through four witnesses, indicating he was with several friends at a party at the time of the incident (Id., 693-757). All of these factors provide corroboration to the confession of Delmar Carlisle, and verify the trustworthiness of those statements. The Court clearly abused it’s discretion in its ruling precluding testimony concerning Carlisle’s confession

CONCLUSION

For the reasons set forth above, appellee respectfully requests that this Court affirm the judgement of the Tenth District Court of Appeals. The Court clearly and appropriately held that appellee's evidence regarding third party guilt should have been admitted.

In the event that the Court rules for the State on the constitutional issue, appellee requests that this Court remand the case to the Tenth District to permit all Judges to rule on the evidentiary issue.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Merit Brief of Appellee was served by hand delivery upon the Franklin County Prosecutor, 373 South High St., Columbus, Ohio 43215, by hand delivery this ___ day of January, 2008.

Dianne Worthington (0005518)

Amendment XIV.

CONSTITUTION OF UNITED STATES

AMENDMENTS

Amendment XIV. Rights Guaranteed: Privileges and Immunities of Citizenship, Due Process, and Equal Protection

Amendment XIV. Rights Guaranteed: Privileges and Immunities of Citizenship, Due Process, and Equal Protection

SECTION. 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SECTION. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

SECTION. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SECTION. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

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RULE 401

Ohio Court Rules

RULES OF EVIDENCE

Article IV. RELEVANCY AND ITS LIMITS

RULE 401 Definition of Relevant Evidence

RULE 401. Definition of "Relevant Evidence"

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

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